

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 305 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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EXECUTIVE ENGINEER (O&M)

Versus

PANKAJ OIL CAKE INDUSTRIES LIMITED

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Appearance:

MRS SIDDHI D TALATI for Petitioners

MR GT DAYANI for Respondent

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 23/11/1999

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. An application is filed by the petitioners-defendants in the court below and prayer has been made therein to decide the issue of jurisdiction first. Under the impugned order, learned trial court has held that it is not a pure question of law but it is a matter of mixed question of law and fact on which

decision can only be given after taking the evidence of the parties.

3. Learned counsel for the petitioner has failed to show how this approach of the learned trial court is perverse. The suit has been filed challenging the bill, the order of the appellate authority of the petitioner Board, the report of the expert about meter. These are the matters of facts, which can be decided after taking the evidence on record. It is not a case where the petitioners directly filed the suit in the matter but it has come to the civil court after exhausting the remedy of appeal. Learned counsel for the petitioners submits that in this case the remedy lies with the plaintiff-respondent to file the writ petition before this court. In view of this contention, otherwise also it is difficult at this stage, to hold that the civil court has no jurisdiction in the matter.

4. In the result, this civil revision application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this court stands vacated. No order as to costs.

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